

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF MISSISSIPPI  
NORTHERN DIVISION**

**UNITED STATES OF AMERICA**

**VS.**

**CRIMINAL NO. 3:16-CR-00049-HTW-FKB-1**

**GUY E. “BUTCH” EVANS**

**MOTION AND MEMORANDUM TO COMPEL FBI 302 REPORT NOTES**

Defendant, Guy E. “Butch” Evans (“Evans”), through counsel, respectfully moves this Court to compel the Government to produce any and all notes and supporting materials in connection with the previously-produced FBI 302 report. In support thereof, Evans provides as follows:

**INTRODUCTION**

On June 27, 2016, the Government made its initial document production to Evans. The Government supplemented its document production on May 15, 2017. An FBI 302 report was included among the documents turned over to Evans by the Government. This 302 report purportedly summarizes the FBI’s interrogation of Evans, which took place on or about December 16, 2015. On this date, Evans was interrogated by two FBI agents, Special Agent Tye M. Breedlove and Special Agent Molly Motley Blythe.

The Government has not produced these agents’ notes or supporting documentation relating to the aforementioned 302 report. Accordingly, Evans respectfully requests that the Government be compelled to produce a copy of both Special Agent Breedlove’s and Special Agent Blythe’s 302 notes to Evans. Alternatively, Evans requests that the Court conduct an in-

camera review of the agents' notes for the purpose of determining whether the 302 report is an accurate and exhaustive summation of the agents' notes.

**APPLICABLE LAW**

In *United States v. Brown*, the court determined that "Rule 16(a)(1)(A) does not grant a criminal defendant a right to preparatory interview notes where the content of those notes have been accurately captured in a type-written report, such as a 302, that has been disclosed to the defendant." 303 F.3d 582, 590 (5th Cir. 2002). According to *Brown*, the government "satisfies its obligation under the Rule when it discloses an FBI agent's 302 report that contains **all** of the information contained in the interview notes." *Id.* (emphasis added). Based on the current state of the law, determining when a defendant is entitled to 302 notes hinges on the results of the applicable court's in-camera review of the notes. *United States v. Case*, 2008 WL 1958176, at \*3 (S.D. Miss. April 25, 2008). The purpose of the in-camera review is to ensure that the 302 report accurately and completely represents the content of any notes. *Id.*

WHEREFORE PREMISES CONSIDERED, Defendant through counsel respectfully requests that this Court compel the United States to produce any and all notes supporting the previously produced FBI 302 report or, in the alternative, conduct an in-camera review of these documents to confirm that the 302 report accurately reflects what is contained in the supporting materials.

This the 13th day of March, 2018.

GUY E. "BUTCH" EVANS, Defendant

By: /s/ Charles E. Griffin

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**ATTORNEYS FOR DEFENDANT**

**CERTIFICATE OF SERVICE**

I, Charles E. Griffin, hereby certify that on this day, I electronically filed the foregoing with the Clerk of Court using the ECF system, which sent notification of such filing to all parties of interest.

On this the 13<sup>th</sup> day of March, 2017.

/s/Charles E. Griffin

Charles E. Griffin